

Notice of Allowability

Application No.

10/757,098

Applicant(s)

KOZAK ET AL.

Examiner

Art Unit

Robert Shiao, Ph. D.

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to remarks filed on 09/11/2006.
2. ☒ The allowed claim(s) is/are 1-7,9-17,19-25,28-32,34 and 35, now are 1-30.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/856,009.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 9. Other: drawings of 01/14/2004 are approved.

R.S. 9/20/06

DETAILED ACTION

1. This application claims benefit of the foreign application: ISRAEL 127143 with a filing date 11/18/1998.
2. Applicant's remarks/arguments filed on September 11, 2006, is acknowledged. Claims 1-7, 9-17, 19-25, 28-32 and 34-35 are pending in the application.

Responses to Arguments

3. Applicant's arguments regarding the rejection of claims 1-7, 9-17, 19-25 and 34-35 over Kozak et al. US 6,730,696 under the obviousness-type double patenting filed on September 11, 2006, have been fully considered and they are persuasive. Since the Request for a Certificate of Correction in US 6,730,696 has been approved in the Office, the rejection of claims 1-7, 9-17, 19-25 and 34-35 over Kozak et al. US 6,730,696 under the obviousness-type double patenting has been withdrawn herein.

Reasons for allowance

4. The following is an examiner's statement of reasons for allowance:
Claims 1-7, 9-17, 19-25 and 34-35 are allowable. Claims 28-32 are previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement among inventions groups, as set forth in the Office action mailed on November 10, 2005, is hereby withdrawn** and claims 28-32 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of

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the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 1-7, 9-17, 19-25, 28-32 and 34-35 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. This invention relates to phospholipids derivatives of non-steroidal anti-inflammatory drugs. The closest reference is Zilch et al. US 5,563,257, which discloses phospholipids derivatives of nucleosides. The difference between the reference and instant claims is that instant claimed compounds have not been found. A suggestion for modification of above reference to obtain the instant claimed compounds/compositions, processes of making and methods of use has not been found. Claims 1-7, 9-17, 19-25, 28-32 and 34-35 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

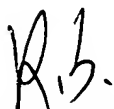
Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Robert Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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Patent Examiner
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Joseph K. McKane
Supervisory Patent Examiner
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September 20, 2006